

Constance Van Kley
Rylee Sommers-Flanagan
Niki Zupanic
Upper Seven Law
P.O. Box 31
Helena, MT 59624
(406) 306-0330
constance@uppersevenlaw.com
rylee@uppersevenlaw.com
niki@uppersevenlaw.com

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT, DISTRICT OF MONTANA
BUTTE DIVISION**

THE IMPERIAL SOVEREIGN COURT
OF THE STATE OF MONTANA; ADRIA
JAWORT; RACHEL CORCORAN; THE
MONTANA BOOK COMPANY; IMAGINE
BREWING COMPANY, LLC d/b/a
IMAGINE NATION BREWING
COMPANY; BUMBLEBEE AERIAL
FITNESS; THE WESTERN MONTANA
COMMUNITY CENTER; MONTANA
PRIDE; THE GREAT FALLS LGBTQ+
COMMUNITY CENTER; THE ROXY
THEATER; and THE MYRNA LOY,

Plaintiffs,

vs.

AUSTIN KNUDSEN; ELSIE ARNTZEN;
J.P. GALLAGHER; and THE CITY OF
HELENA,

Defendants.

Cause No.
CV-23-50-BU-BMM

**Plaintiffs' Motion for a
Temporary Restraining
Order and Preliminary
Injunction**

Emergency Relief Requested

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiffs The Imperial Sovereign Court of the State of Montana, Adria Jawort, Rachel Corcoran, The Montana Book Company, Imagine Brewing Company, LLC d/b/a Imagine Nation Brewing Company, Bumblebee Aerial Fitness, The Western Montana Community Center, Montana Pride, The Great Falls LGBTQ+ Community Center, The Roxy Theater, and The Myrna Loy move for a temporary restraining order and preliminary injunction to prevent Defendants Austin Knudsen, Elsie Arntzen, and the City of Helena from enforcing House Bill 359 (“HB 359”) pending this Court’s determination of HB 359’s constitutionality.

HB 359—a breathtakingly ambiguous and overbroad bill motivated by anti-LGBTQ+ animus—is an unconstitutional content- and viewpoint-based restriction on free speech in violation of the First Amendment. Preliminary relief is appropriate because: (1) plaintiffs are “likely to succeed on the merits” of their claim; (2) plaintiffs are “likely to suffer irreparable harm in the absence of preliminary relief”; (3) “the balance of equities tips in [their] favor”; and (4) “an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Constitutional harm is likely in the absence of preliminary

relief, and, in fact, has already occurred. Plaintiffs respectfully ask the Court to issue a temporary restraining order and preliminary injunction against the State and the City of Helena.

Defendants have not yet entered an appearance in this action. D. Mont. L.R. 7.1(c)(1).

Respectfully submitted this 17th day of July, 2023.

/s/Constance Van Kley
Constance Van Kley
Rylee Sommers-Flanagan
Niki Zupanic
UPPER SEVEN LAW

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that this document was served upon the following on July 17, 2023, by delivery to a process server:

Austin Knudsen, Office of the Attorney General
Justice Building, Third Floor
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

Elsie Arntzen, Montana Superintendent of Public Instruction
1227 11th Ave
P.O. Box 202501
Helena, MT 59601

J.P. Gallagher, Chief Executive
155 W Granite Street
Butte, MT 59701

City of Helena
City County Building
316 N. Park Ave.,
Helena, MT 59601

I further certify that courtesy copies were provided via email to legal counsel for the parties above.

/s/Constance Van Kley
Constance Van Kley

Attorney for Plaintiffs